



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building

100 Cambridge Street, Boston 02204

August 30, 1984

You request a ruling regarding the application of the Massachusetts sales tax to sales of products by ("Company"). The Company sells parenteral nutrition supplies to individuals. These supplies are used to nourish patients intravenously in their own homes.

You state that the Company's parenteral nutrition supplies are sold in four separate kits. Kit A is comprised of nutrients in solutions, compounded by pharmacists from a physician's prescription. The nutrients are composed of amino acids, electrolytes, vitamins, and trace minerals. Kit B is comprised of fluid administration supplies: tubing, administration sets, needles, syringes, supplies used to maintain a clean I.V. site (dressing changes, gloves, alcohol swabs), and sodium heparin, an anticoagulant. Kit C is the infusion equipment: a volumetric infusion pump and a pole; Kit C is rented to the patient on a daily basis. Kit D is comprised of start-up supplies which are usually only purchased once such as a needle destruction device and surgical hand soap.

1. Chapter 64H, Section 2 of the Massachusetts General Laws imposes a five percent sales tax on all retail sales of tangible personal property, unless otherwise exempted. Section 6(1) of Chapter 64H exempts from the sales tax

[s]ales of medicine, insulin needles and insulin syringes on prescriptions of registered physicians and sales of insulin; sales of oxygen, blood or

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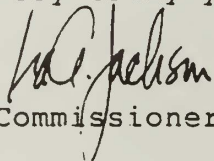
blood plasma; sales of artificial devices individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual; sales of artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body; sales of artificial teeth by a dentist and the materials used by a dentist in dental treatment; sales of eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser; sales of crutches and wheel chairs for the use of invalids and crippled persons; and sales of baby oil.

Kit A, composed of nutrients, is compounded by pharmacists as prescribed by physicians. Therefore, sales of Kit A are not subject to the sales tax.

2. No exemption from the sales tax exists for medical equipment or supplies that are sold without a prescription or that are not individually designed for a particular person as a support or substitute for the bodily structure or worn as a correction or substitute for a functioning portion of the body. Therefore, sales of Kit B, Kit C, and Kit D are subject to the sales tax.

3. The definition of a sale includes the lease or rental of tangible personal property. (G.L. c. 64H, § 1(12)(a)). Therefore, the rental of the infusion equipment in Kit C on a daily basis is subject to the sales tax.

Very truly yours,


Commissioner of Revenue

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